

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

**CYNTHIA TURNAGE, *et al.*,
Plaintiffs,**

v.

**NORFOLK SOUTHERN CORPORATION
and NORFOLK SOUTHERN RAILWAY
COMPANY,
Defendants.**

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3:03-cv-341

ORDER

This matter is before the court on the report and recommendation filed by United States Magistrate Judge H. Bruce Guyton [ECF # 111]. Plaintiffs have filed objections [ECF # 112], to which defendants have responded [ECF # 113]. Plaintiffs have also replied to defendants' responses [ECF # 115].

After a careful review of this matter, the court is in complete agreement with the magistrate judge's recommendation that the purported class not be certified. Indeed, in the view of the undersigned, the speculative proof relied upon by the plaintiffs does not satisfy the requirements of Fed. R. Civ. P. 23(a)(1). The court therefore **ACCEPTS IN WHOLE** the report and recommendation under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). It is **ORDERED**, for the reasons stated in the report and recommendation,

which the court adopts and incorporates into its ruling, that the plaintiffs' renewed motion for class certification [ECF # 75] be **DENIED**. Any currently pending motions are **DENIED AS MOOT**.

IT IS SO ORDERED.

ENTER:

s/Thomas W. Phillips
UNITED STATES DISTRICT JUDGE